

1 AN ACT concerning the regulation of professions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Petroleum Equipment Contractors Licensing Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Board" means the Petroleum Equipment Contractors
8 Advisory Board.

9 "Employee" means a licensee or a person who is currently
10 employed by a contractor licensed under this Act whose full
11 or part-time duties include installing, repairing, or
12 removing underground storage tanks.

13 "Person" means a natural person or any company,
14 corporation, or other business entity.

15 "Petroleum equipment contractor" means a person, company,
16 or corporation that installs, repairs, or removes underground
17 storage tanks.

18 Section 10. Licensure requirement; injunction.
19 Beginning 6 months after the effective date of this Act, no
20 person, firm, association, or corporation shall act as a
21 petroleum equipment contractor or employee, advertise or
22 assume to act as a petroleum equipment contractor or
23 employee, or use any title implying that the person, firm,
24 association, or corporation is engaged in such practice or
25 occupation, unless licensed by the State Fire Marshal.

26 The State Fire Marshal, in the name of the People,
27 through the Attorney General, the State's Attorney of any
28 county, any resident of the State, or any legal entity within
29 the State may apply for injunctive relief in any court to
30 enjoin a person who has not been issued a license or whose

1 license has been suspended, revoked, or not renewed, from
2 practicing as a petroleum equipment contractor, and, upon the
3 filing of a verified petition, the court, if satisfied by
4 affidavit or otherwise that the person is or has been
5 practicing in violation of this Act, may enter a temporary
6 restraining order or preliminary injunction, without bond,
7 enjoining the defendant from further activity. A copy of the
8 verified complaint shall be served upon the defendant and the
9 proceedings shall be conducted as in other civil cases. If
10 it is established that the defendant has been, or is
11 practicing in violation of this Act, the court may enter a
12 judgment perpetually enjoining the defendant from any further
13 unlicensed activity. In the case of violation of any
14 injunctive order or judgment entered under the provisions of
15 this Section, the court may summarily try and punish the
16 offender for contempt of court. Such injunctive proceeding
17 shall be in addition to all penalties and other remedies in
18 this Act.

19 Section 15. Deposit of fees. All fees collected
20 pursuant to this Act shall be deposited into the Fire
21 Prevention Fund.

22 Section 20. Petroleum Equipment Contractors Advisory
23 Board. There is created the Petroleum Equipment Contractors
24 Advisory Board consisting of 5 members to be appointed by the
25 State Fire Marshal, one of whom represents of the Illinois
26 Petroleum Council, one of whom represents the Illinois
27 Petroleum Marketers Association, one of whom represents the
28 Illinois Chemical Industry Council, and 2 of whom represent
29 the Illinois Petroleum Equipment Contractors Association.
30 The State Fire Marshal shall be an ex officio member of the
31 Board. Each member shall be a resident of Illinois. In
32 making Board appointments, the State Fire Marshal shall give

1 consideration to the recommendations by members of the
2 profession and by organizations. The membership shall
3 reasonably reflect representation from geographic areas in
4 this State.

5 Board members shall serve 4-year terms and may serve
6 until their successors are appointed and qualified. However,
7 in making initial appointments, 2 members shall be appointed
8 to serve for 2 years, 2 members shall be appointed to serve
9 for 3 years, and one member shall be appointed to serve for 4
10 years. Appointments to fill vacancies shall be made in the
11 same manner as original appointments for the unexpired
12 portion of the vacated term.

13 A member of the Board may be removed from office for just
14 cause. A member subject to formal disciplinary proceedings
15 shall disqualify himself or herself from Board business until
16 the charge is resolved. A member also shall disqualify
17 himself or herself from any matter on which the member may
18 not objectively make a decision.

19 Board members shall receive no compensation but shall be
20 reimbursed for expenses incurred in connection with their
21 duties as board members.

22 A majority of Board members then appointed shall
23 constitute a quorum. A majority vote of the quorum is
24 required for a Board decision.

25 The Board shall elect from its membership a chairperson
26 and other officers as it may deem necessary.

27 Board members shall not be liable for any of their acts,
28 omissions, decisions, or any other conduct in connection with
29 their duties on the Board, except those involving willful,
30 wanton, or intentional misconduct.

31 The Board may have any powers granted by the State Fire
32 Marshal to carry out the provisions of this Act.

33 Section 25. Rules; report.

1 (a) The State Fire Marshal shall promulgate rules
2 consistent with the provisions of this Act for the
3 administration and enforcement of this Act and may prescribe
4 forms that shall be issued in connection with the rules
5 promulgated under this Act. The rules shall include
6 standards and criteria for registration, professional
7 conduct, and discipline. The State Fire Marshal shall
8 consult with the Board in promulgating all rules under this
9 Act.

10 (b) The Board shall propose to the State Fire Marshal
11 additions or modifications to administrative rules whenever a
12 majority of the members believes the rules are deficient for
13 the proper administration of this Act.

14 (c) The State Fire Marshal may solicit the advice and
15 expert knowledge of the Board on any matter relating to the
16 administration and enforcement of this Act.

17 (d) The State Fire Marshal may provide by rule for an
18 examination to be completed by applicants for a petroleum
19 equipment contractors license.

20 (e) The State Fire Marshal shall issue to the Board
21 prior to each Board meeting, but not less than quarterly, a
22 report of the status of all convictions related to the
23 profession received by the State Fire Marshal.

24 Section 30. Investigators. The State Fire Marshal may
25 employ, in conformity with the Personnel Code, the
26 professional, technical, investigative, or clerical help that
27 may be necessary for the enforcement of this Act. Each
28 investigator shall have a minimum of 2 years investigative
29 experience out of the preceding 5 years.

30 An investigator may not hold an active license issued
31 pursuant to this Act or have any fiduciary interest in any
32 business licensed under this Act. This prohibition does not
33 prohibit the investigator from holding stock in a publicly

1 traded business licensed or regulated under this Act,
2 provided that the investigator does not hold more than 5% of
3 the stock of the business.

4 Section 35. Qualifications for licensure. In order to
5 qualify for a petroleum equipment contractor license, the
6 applicant must provide the following to the Office of the
7 State Fire Marshal:

8 (1) an annual license fee of \$100;

9 (2) evidence of registration as an Illinois
10 corporation or evidence of compliance with the Assumed
11 Business Name Act;

12 (3) evidence of financial responsibility in a
13 minimum amount of \$300,000 through liability insurance,
14 self-insurance, group insurance, group self-insurance, or
15 risk retention groups;

16 (4) evidence of owning, leasing, renting, or having
17 access to proper testing equipment that is in compliance
18 with the standards adopted by the State Fire Marshal for
19 the maintenance and operation of such testing tools; and

20 (5) evidence of compliance with all other
21 requirements, as determined by the Office of the State
22 Fire Marshal.

23 Section 40. Application. Each application for a license
24 to practice under this Act shall be in writing and signed by
25 the applicant on forms provided by the Office of the State
26 Fire Marshal.

27 Section 45. Issuance of license; renewal.

28 (a) The State Fire Marshal shall, upon the applicant's
29 satisfactory completion of the requirements authorized under
30 this Act, and upon receipt of the requisite fees, issue the
31 appropriate license and wallet card showing the name and

1 business location of the licensee, the dates of issuance and
2 expiration, and shall contain a photograph of the licensee
3 provided to the State Fire Marshal.

4 (b) Each licensee may apply for renewal of his or her
5 license upon payment of the \$200 fee. The expiration date
6 and renewal period for each license issued under this Act
7 shall be set by rule. Failure to renew within 60 days of the
8 date shall cause the license to lapse. A lapsed license may
9 not be reinstated until a written application is filed, the
10 renewal fee is paid, and a \$50 reinstatement fee is paid.
11 The renewal and reinstatement fees shall be waived for
12 persons who did not renew while on active duty in the
13 military and who file for renewal or restoration within one
14 year after discharge from the active duty service.

15 (c) All fees paid pursuant to this Act are
16 non-refundable.

17 Section 50. Returned checks. Any person who on 2
18 occasions issues or delivers a check or other order to the
19 State Fire Marshal that is not honored by the financial
20 institution upon which it is drawn because of insufficient
21 funds in his or her account, shall pay to the State Fire
22 Marshal, in addition to the amount owing upon the check or
23 other order, a fee of \$50. If the check or other order was
24 issued or delivered in payment of a renewal fee and the
25 licensee whose license has lapsed continues to practice
26 without paying the renewal fee and the \$50 fee required under
27 this Section, an additional fee of \$100 shall be imposed for
28 practicing without a current license. The State Fire Marshal
29 shall notify the licensee whose license has lapsed within 30
30 days after the discovery by the State Fire Marshal that the
31 licensee is practicing without a current license, that the
32 person is acting as a petroleum equipment contractor or
33 employee, as the case may be, without a license, and the

1 amount due to the State Fire Marshal, which shall include the
2 lapsed renewal fee and all other fees required by this
3 Section. If after the expiration of 30 days from the date of
4 such notification, the licensee whose license has lapsed
5 seeks a current license, he or she shall apply to the State
6 Fire Marshal for reinstatement of the license and pay all
7 fees due to the State Fire Marshal. The State Fire Marshal
8 may establish a fee for the processing of an application for
9 reinstatement of a license that allows the State Fire Marshal
10 to pay all costs and expenses incident to the processing of
11 this application. The State Fire Marshal may waive the fees
12 due under this Section in individual cases where he or she
13 finds that the fees would be unreasonable or unnecessarily
14 burdensome.

15 Section 55. Physical examination. The State Fire
16 Marshal may order a licensee to submit to a reasonable
17 physical examination if his or her physical capacity to
18 practice safely is at issue in a disciplinary proceeding.
19 Failure to comply with a State Fire Marshal order to submit
20 to a physical examination shall be grounds for summary
21 suspension.

22 Section 60. License renewal; display of license;
23 inspection.

24 (a) As a condition of renewal of a license, the State
25 Fire Marshal may require the licensee to report information
26 pertaining to his or her practice that the State Fire Marshal
27 determines to be in the interest of public safety.

28 (b) A licensee shall report a change in home or office
29 address within 10 days.

30 (c) Each licensee shall prominently display his or her
31 license to practice at each place from which the practice is
32 being performed. If more than one location is used, branch

1 office certificates shall be issued upon payment of the fees
2 to be established by the State Fire Marshal. Each employee
3 shall carry on his or her person a wallet card issued by the
4 State Fire Marshal.

5 (d) If a license or certificate is lost, a duplicate
6 shall be issued upon payment of the required fee to be
7 established by the State Fire Marshal. If a licensee wishes
8 to change his or her name, the State Fire Marshal shall issue
9 a license in the new name upon payment of the required fee
10 and upon receipt of satisfactory proof that the change was
11 done in accordance with law.

12 (e) Each licensee shall permit his or her facilities to
13 be inspected by representatives of the Office of the State
14 Fire Marshal.

15 Section 65. Disciplinary actions. Licensees shall be
16 subject to disciplinary action for any of the following:

17 (1) obtaining or renewing a license by the use of
18 fraud or material deception;

19 (2) being professionally incompetent as manifested
20 by poor standards of service;

21 (3) engaging in dishonorable, unethical, or
22 unprofessional conduct of a character likely to deceive,
23 defraud, or harm the public in the course of professional
24 services or activities;

25 (4) being convicted of a crime that has a
26 substantial relationship to his or her practice or an
27 essential element of which is misstatement, fraud, or
28 dishonesty, being convicted in this or another state of
29 any crime that is a felony under the laws of Illinois or
30 of that state, or being convicted of a felony in a
31 federal court, unless the licensee demonstrates that he
32 or she has been sufficiently rehabilitated to warrant the
33 public trust;

1 (5) performing any service in a grossly negligent
2 manner or permitting any licensed employee to perform
3 services in a grossly negligent manner, regardless of
4 whether actual damage or damage to the public is
5 established;

6 (6) being habitual drunk or having a habitual
7 addiction to the use of morphine, cocaine, controlled
8 substances, or other habit-forming drugs;

9 (7) willfully receiving compensation, directly or
10 indirectly, for any professional service not actually
11 rendered;

12 (8) having disciplinary action taken against his or
13 her license in another State;

14 (9) contracting or assisting unlicensed persons to
15 perform services for which a license is required under
16 this Act;

17 (10) permitting the use of his or her license to
18 enable an unlicensed person or agency to operate as a
19 licensee;

20 (11) performing and charging for services without
21 having authorization to do so from the member of the
22 public being served; or

23 (12) failing to comply with any provision of this
24 Act or the rules adopted under this Act.

25 Section 70. Complaints. All complaints concerning
26 violations regarding licensees or unlicensed activity shall
27 be received and logged by the State Fire Marshal and reported
28 to the Board.

29 Section 75. Formal charges; hearings.

30 (a) Following the investigative process, the State Fire
31 Marshal may file formal charges against the licensee. The
32 formal charges shall, at a minimum, inform the licensee of

1 the facts that comprise the basis of the charge and that are
2 specific enough to enable the licensee to defend himself or
3 herself.

4 (b) Each licensee whose conduct is the subject of a
5 formal charge that seeks to impose disciplinary action
6 against the licensee shall be served notice of the formal
7 charge at least 30 days before the date of the hearing, which
8 shall be presided over by a hearing officer authorized by the
9 State Fire Marshal. Service shall be considered to have been
10 given if the notice was personally received by the licensee
11 or if the notice was sent by certified mail, return receipt
12 requested, to the licensee at the licensee's last known
13 address as listed with the State Fire Marshal.

14 (c) The notice of formal charges shall inform the
15 licensee (i) of the time, date, and place of the hearing;
16 (ii) that the licensee shall appear personally at the hearing
17 and may be represented by counsel; (iii) that the licensee
18 shall have the right to produce witnesses and evidence in his
19 or her behalf and shall have the right to cross-examine
20 witnesses and examine evidence produced against him or her;
21 (iv) that the hearing could result in disciplinary action
22 being taken against his or her license; (v) that rules for
23 the conduct of these hearings exist and it may be in the
24 licensee's best interest to obtain a copy; (vi) that a
25 hearing officer authorized by the State Fire Marshal shall
26 preside at the hearing and following the conclusion of the
27 hearing shall make findings of fact, conclusions of law, and
28 recommendations to the State Fire Marshal as to what
29 disciplinary action, if any, should be imposed on the
30 licensee; and (vii) that the State Fire Marshal may continue
31 the hearing.

32 (d) The hearing officer authorized by the State Fire
33 Marshal shall hear the evidence produced in support of the
34 formal charges and any contrary evidence produced by the

1 licensee. At the conclusion of the hearing, the hearing
2 officer shall make findings of fact, conclusions of law, and
3 recommendations and submit them to the State Fire Marshal and
4 to all parties to the proceeding. Submission to the licensee
5 shall be considered as having been made if done in a similar
6 fashion as service of the notice of formal charges. Within
7 20 days after such service, any party to the proceeding may
8 present to the State Fire Marshal a motion, in writing, for a
9 rehearing that specifies the grounds for rehearing.

10 (e) The State Fire Marshal, following the time allowed
11 for filing a motion for rehearing, shall review the hearing
12 officer's findings of fact, conclusions of law, and
13 recommendations and any motions filed subsequent to the
14 findings, conclusions, and recommendations. After reviewing
15 this information, the State Fire Marshal may hear oral
16 arguments, prior to issuing an order. The report of findings
17 of fact, conclusions of law, and recommendations of the
18 hearing officer shall be the basis for the State Fire
19 Marshal's order.

20 If the State Fire Marshal finds that substantial justice
21 was not done, he or she may issue an order in contravention
22 to the findings of fact, conclusions of law, and
23 recommendations of the hearing officer. The State Fire
24 Marshal shall provide the Board with written explanation of
25 any such deviation, and shall specify with particularity the
26 reasons for the action. The finding is not admissible in
27 evidence against the person in a criminal prosecution brought
28 for the violation of this Act.

29 (f) All proceedings pursuant to this Section are matters
30 of public record and shall be preserved.

31 Section 80. Sanctions.

32 (a) The State Fire Marshal shall impose any of the
33 following sanctions, singly or in combination, when he or she

1 finds that a licensee is guilty of any offense described in
2 Section 65:

- 3 (1) revocation;
- 4 (2) suspension for any period of time;
- 5 (3) reprimand or censure;
- 6 (4) placement on probationary status and
7 requirement that the licensee submit of any of the
8 following:

9 (A) report regularly to the Board or State
10 Fire Marshal upon matters that are the basis of the
11 probation;

12 (B) continue or renew professional education
13 until a satisfactory degree of skill has been
14 attained in those areas that are the basis of the
15 probation; or

16 (C) any other reasonable requirements or
17 restrictions as are proper;

18 (5) refusal to issue, renew, or restore; or

19 (6) revocation of probation that has been granted
20 and imposition of any other discipline in this subsection
21 (a) when the requirements of probation have not been
22 fulfilled or have been violated.

23 (b) The State Fire Marshal may summarily suspend a
24 license under this Act, without a hearing, simultaneously
25 with the filing of a formal complaint and notice for a
26 hearing, if the State Fire Marshal finds that the continued
27 operations of the individual would constitute an immediate
28 danger to the public. In the event the State Fire Marshal
29 suspends a license under this subsection, a hearing by the
30 hearing officer designated by the State Fire Marshal shall be
31 held within 20 days after the suspension begins, unless
32 continued at the request of the licensee.

33 (c) Disposition may be made of any formal complaint by
34 consent order between the State Fire Marshal and the

1 licensee, but the Board must be apprised of the full consent
2 order in a timely way.

3 (d) The State Fire Marshal shall reinstate a license to
4 good standing under this Act, upon recommendation to the
5 State Fire Marshal, after a hearing before the hearing
6 officer authorized by the State Fire Marshal. The State Fire
7 Marshal shall be satisfied that the applicant's renewed
8 practice is not contrary to the public interest.

9 (e) The State Fire Marshal may conduct hearings and
10 issue cease and desist orders to persons who engage in
11 activities prohibited by this Act without having a valid
12 license, certificate, or registration. Any person in
13 violation of a cease and desist order entered by the State
14 Fire Marshal shall be subject to all of the remedies provided
15 by law and, in addition, shall be subject to a civil penalty
16 payable to the party injured by the violation.

17 (f) The State Fire Marshal shall seek to achieve
18 consistency in the application of the foregoing sanctions and
19 consent orders and significant departure from prior decisions
20 involving similar conduct shall be explained in the State
21 Fire Marshal's orders.

22 (g) Upon the suspension or revocation of a license
23 issued under this Act, a licensee shall surrender the license
24 to the State Fire Marshal and, upon failure to do so, the
25 State Fire Marshal shall seize the same.

26 (h) The State Fire Marshal may refuse to issue or may
27 suspend the license of any person who fails to file a return,
28 to pay the tax, penalty, or interest shown in a filed return,
29 or to pay any final assessment of tax, penalty, or interest,
30 as required by any tax Act administered by the Illinois
31 Department of Revenue, until the time that the requirements
32 of any such tax Act are satisfied.

33 Section 85. Depositions; witnesses; judicial review.

1 (a) The State Fire Marshal has the power to subpoena and
2 bring before him or her any person in this State and to take
3 testimony either orally or by deposition, or both, with the
4 same fees and mileage and in the same manner as is prescribed
5 by law for judicial proceedings in civil cases. The State
6 Fire Marshal and the hearing officer approved by the State
7 Fire Marshal have the power to administer oaths at any
8 hearing that the State Fire Marshal is authorized to conduct.

9 (b) A circuit court, upon the application of the
10 licensee or the State Fire Marshal, may order the attendance
11 of witnesses and the production of relevant books and papers
12 in any hearing conducted pursuant to this Act. The court may
13 compel obedience to its order by proceedings for contempt.

14 (c) The State Fire Marshal, at the Office's expense,
15 shall provide a stenographer or a mechanical recording
16 device to record the testimony and preserve a record of all
17 proceedings at the hearing of any case wherein a license may
18 be revoked, suspended, placed on probationary status, or
19 other disciplinary action taken with regard to the license.
20 The notice of hearing, the complaint, and all other documents
21 in the nature of pleadings and written motions filed in the
22 proceedings, the transcript of testimony, the report of the
23 hearing officer, and the orders of the State Fire Marshal
24 constitute the record of the proceedings. The State Fire
25 Marshal shall furnish a transcript of the record to any
26 interested person upon payment of the costs of copying and
27 transmitting the record.

28 (d) All final administrative decisions of the State Fire
29 Marshal are subject to judicial review pursuant to the
30 provisions of the Administrative Review Law and the rules
31 adopted pursuant thereto. Proceedings for judicial review
32 shall be commenced in the Circuit Court of the county in
33 which the party applying for review resides. If party
34 applying for review is not a resident of Illinois, the venue

1 shall be in Sangamon County. The State Fire Marshal shall not
2 be required to certify any record to the court, file any
3 answer in court, or otherwise appear in any court in a
4 judicial review proceeding, unless there is filed in the
5 court with the complaint a receipt from the State Fire
6 Marshal acknowledging payment of the costs of furnishing and
7 certifying the record, which costs shall be computed at the
8 cost of preparing such record. Exhibits shall be certified
9 without cost. Failure on the part of the licensee to file
10 the receipt in court shall be grounds for dismissal of the
11 action.

12 During all judicial proceedings incident to disciplinary
13 action, the sanctions imposed upon the accused by the State
14 Fire Marshal shall remain in effect, unless the court feels
15 justice requires a stay of the order.

16 Section 90. Order; prima facie proof. An order or a
17 certified copy of an order, bearing the seal of the State
18 Fire Marshal and purporting to be signed by the State Fire
19 Marshal, is prima facie proof that:

- 20 (1) the signature is that of the State Fire
21 Marshal;
- 22 (2) the State Fire Marshal is qualified to act; and
- 23 (3) the hearing officer is qualified to act on
24 behalf of the State Fire Marshal.

25 Such proof may be rebutted.

26 Section 95. Publication of records. The State Fire
27 Marshal shall, upon request, publish a list of the names and
28 addresses of all licensees under the provisions of this Act.
29 The State Fire Marshal shall publish an annual list of all
30 persons whose licenses have been disciplined within the prior
31 year and a quarterly list of each individual who was denied
32 employment status because of a criminal history, together

1 with any other information as the State Fire Marshal may deem
2 of interest to the public.

3 Section 100. Criminal penalties. A person who violates
4 any of the provisions of this Act shall be guilty of a Class
5 A misdemeanor for the first offense and shall be guilty of a
6 Class 4 felony for a second or subsequent offense.

7 Section 105. Home rule. The regulation and licensing of
8 petroleum equipment contractors are exclusive powers and
9 functions of the State. A home rule unit may not regulate or
10 license petroleum equipment contractors. This Section is a
11 denial and limitation of home rule powers and functions under
12 subsection (h) of Section 6 of Article VII of the Illinois
13 Constitution.

14 Section 900. The Regulatory Sunset Act is amended by
15 adding Section 4.22 as follows:

16 (5 ILCS 80/4.22 new)

17 Sec. 4.22. Act repealed on January 1, 2012. The
18 following Act is repealed on January 1, 2012:

19 The Petroleum Equipment Contractors Licensing Act.

20 Section 999. Effective date. This Act takes effect upon
21 becoming law.